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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,146	04/20/2005	Takumi Ikeda	MAT-8688US	6489

23122 7590 11/16/2006	**EXAMINER**	
RATNERPRESTIA	CHOW, CHARLES CHIANG	
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ART UNIT	PAPER NUMBER
2618	

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Office Action Summary	Application No.	Applicant(s)
	10/532,146	IKEDA, TAKUMI
	Examiner	Art Unit
	Charles Chow	2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _20 April 2005_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-15_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-15_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _20 April 2005_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All   b)☐ Some * c)☐ None of:

      1.☒ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

Detailed Action

Title

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of

the invention to which the claims are directed. The current title, "Information transmitting

apparatus, operation apparatus, information processing system and program", is not

descriptive for the key features of the invention, for the <u>changing a information transmittable</u>

<u>distance</u>.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions
> and requirements of this title.

2. Claims 12-15 are rejected under 35 U.S.C. 101 because the claimed features is not

operative. See MPEP 2106.

In the independent claim 12, there is <u>no storage medium </u>for holding the computer

program to be readable by the computer, in order to execute the program.

Further, applicant's<u> specification does not contain any software program coding</u>, for

supporting the claimed program for a computer to execute thereof.

For example, in a block diagram disclosure of a complex claimed system which includes
a microprocessor and other system components controlled by the microprocessor, a mere
reference to a prior art, commercially available microprocessor, without any description of
the precise operations to be performed by the microprocessor, fails to disclose how such a
microprocessor would be properly programmed to either perform any required calculations
or to coordinate the other system components in the proper timed sequence to perform the
functions disclosed and claimed. If, in such a system, a particular program is disclosed, such
a program should be carefully reviewed <u>to ensure that its scope is commensurate with the</u>
<u>scope of the functions attributed to such a program in the claims</u>. See In re Brown, 477 F.2d
at 951, 177 USPQ at 695. If <u>the disclosure fails to disclose any program and if more than</u>
<u>routine experimentation</u> <u>would be required of one skilled in the art to generate such a</u>
<u>program, the examiner clearly would have a reasonable basis for challenging the sufficiency</u>
<u>of such a disclosure</u>. The amount of.experimentation that is considered routine will vary
depending on the facts and circumstances of individual cases. No exact numerical standard
has been fixed by the courts, but the "amount of required experimentation must, however,

be reasonable." White Consol. Indus., 713 F.2d at 791, 218 USPQ at 963. One court apparently found that the amount of experimentation involved was reasonable where a skilled programmer was able to write a general computer program, implementing an embodiment form, within 4 hours. Hirschfield v. Banner, 462 F. Supp. 135, 142, 200 USPQ 276, 279 (D.D.C. 1978), aff 'd, 615 F.2d 1368 (D.C. Cir. 1986), cert. denied, 450 U.S. 994 (1981). On the other hand, another court found that, where the required period of experimentation for skilled programmers to develop a particular program would run to 1 to 2 man years, this would be "a clearly unreasonable requirement" (White Consol. Indus., 713 F.2d at 791, 218 USPQ at 963).

The de pendent claims 13-15 are rejected due to their dependency upon rejected independent claim 12.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 5, 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Olson et al. (US

2003/0197,594 A1).

For claim 1, Olson teaches an information transmitting apparatus [wireless control

system 12 in Fig. 2] comprising

an information storage part for storing information [control data message in memory of a

transmitter for wirelessly controlling a plurality of home electronic systems, paragraph 0009];

a sensing part [distance sensing 52] for sensing a mobile condition of the information

transmitting apparatus [detecting the mobile condition, speed of wireless vehicle 10 & the

for calculated distance traveled, paragraph 0026]; and

an information transmission part [54] for changing an information transmittable distance

based on the mobile condition, then transmitting the information [transmitting control signal

based on proximity between the wireless control system 12 & home electronic system 18,

paragraph 0006, 0030; automatically transmit wireless control data from 12 to 18 based on stored training heading, distance, information, for the changing the transmittable distance based on the mobile condition in Fig. 5 & paragraph 0034-0035].

[Note: A>Siegel, US 2003/0043,056 A1, also teaches the sensing a mobile condition, transmitter speed of emergency vehicle, & to change an information transmittable distance based on the mobile emergency vehicle speed condition, having adjustable transmission distance for transmitting unique signal stamp & GPS signal, paragraph 0012-0013, 0014, 0024, 0036. B> Striemer, US 2003/0195,581 A1, teaches controlling the printer action by mobile phone when printer is in range, using Bluetooth standard in paragraph 0023, for the transmittable distance for printer in range to print e-mail & other information].

For claim 5, Olson teaches the information transmitting apparatus [12 in Fig. 2], wherein the information transmission part divides the mobile condition into a plurality of ranks [control 30 of the transmission part divides the mobile condition into plurality of ranks, headings & distances in Fig. 5, paragraph 0034], and

changes a transmittable distance in each one of the ranks for transmitting the stored information [automatically transmit wireless control data from 12 to 18 based on stored training heading, distance, information, for the changing the transmittable distance based on the mobile condition in Fig. 5 & paragraph 0030, 0034-0035].

For claim 12, Olson teaches a program for a computer to execute thereof [software subroutine in paragraph 0039, 0050, memory has control in paragraph 0025],

the program comprising the steps of sensing a mobile condition of an information transmitting apparatus [calculate distance subroutine in step 230 in Fig. 7-8] ; and transmitting the information with changing a transmission distance of stored information based on the mobile condition [software subroutine is based on the calculated distance &

predetermined proximity, to activate transmitting of command start, steps in Fig. 7, Fig. 10,

paragraph 0048-0049].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness
rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as
> set forth in section 102 of this title, if the differences between the subject matter sought to be
> patented and the prior art are such that the subject matter as a whole would have been obvious at
> the time the invention was made to a person having ordinary skill in the art to which said subject
> matter pertains. Patentability shall not be negatived by the manner in which the invention was
> made.

4. Claims 2, 6, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olson in

view of Westerlage et al. (US 5,970,481).

For claim 2, Olson teaches the information transmitting apparatus [12 in Fig. 2],

wherein the mobile condition is at least one mobile condition selected from the group

consisting of a moving speed [detecting vehicle velocity, paragraph 0027], a traveling

distance [calculate the traveled distance, 0027], and

a traveling route of the information transmitting apparatus [paragraph 0033], wherein the

sensing part [52 & subroutine, step 230, Fig. 7-8] senses the mobile condition [heading &

distance in Fig. 5, paragraph 0034].

Olson detects the vehicle speed [paragraph 0027] but fails to teach the moving

acceleration.

Westerlage et al. [Westerlage] teaches the moving acceleration [detecting the

acceleration of mobile 22 in vehicle 20 for current position information in col. 4, lines 21-31 &

transmitting vehicle information, traveled distance, to remote location, col. 4, lines 44-67; 22,

Fig. 5-6], for determining of the mobile vehicle current position. Therefore, It would have

been obvious to one of ordinary skill in the art at the time the invention was made to

upgrade Olson with Westerlage's acceleration information, in order to determine the mobile

vehicle current position.

For claims 6, 13, Olson teaches the information transmitting apparatus [12 in Fig. 2],

wherein the sensing part [52] senses at least one mobile condition [52 & subroutine, step

230, Fig. 7-8, detecting mobile condition, heading & distance in Fig. 5, paragraph 0034],

selected from the group consisting of a moving speed [detecting vehicle velocity, paragraph

0027], a traveling distance [calculate the traveled distance, 0027], and a traveling route of

the information transmitting apparatus [paragraph 0033],

wherein the information transmission part [control 30 of wireless transmitter 54] divides

the mobile condition into a plurality of ranks [plurality of heading with corresponding

distance in Fig. 5, paragraph 0034], and changes a transmittable distance in each one of the

ranks for transmitting the stored information [transmitting control data based on the

proximity & predetermined distance in paragraph 0035].

Olson detects the vehicle speed [paragraph 0027] but fails to teach the moving

acceleration.

Westerlage et al. [Westerlage] teaches the moving acceleration [detecting the

acceleration of mobile 22 in vehicle 20 for current position information in col. 4, lines 21-31 &

transmitting vehicle information, traveled distance, to remote location, col. 4, lines 44-67; 22,

Fig. 5-6], for determining of the mobile vehicle current position. Therefore, It would have

been obvious to one of ordinary skill in the art at the time the invention was made to

upgrade Olson with Westerlage's acceleration information, in order to determine the mobile

vehicle current position.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Olson in view of

Striemer (US 2003/0195,814 A1).

For claim 3 Olson teaches the information transmitting apparatus [the wireless control

12 in Fig. 2, or other wireless signal, paragraph 0024], but fails to teach the Bluetooth

standard.

Striemer teaches the wherein the information transmission part is a communication

means in accordance with the Bluetooth standard [the transmitter of the UPS vehicle using

Bluetooth standard for communicating with a wireless device inside customer house for

confirming of the product delivery, when in range of physical location of customer,

confirming customized delivery [paragraph 0045-0046]; confirming required action according

to received message [paragraph 0042; controlling the print action by mobile phone when

printer is in range in paragraph 0023]. Therefore, It would have been obvious to one of

ordinary skill in the art at the time the invention was made to Olson with Striemer's

transmitter using Bluetooth standard, in order to confirm the required action according to the

received message.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Olson in view of

Siegel (US 2003/0043,056 A1).

For claim 4, Olson teaches the information transmitting apparatus [Fig. 2], wherein the

information transmission part divides the mobile condition into a plurality of ranks [control 30

of the transmission part divides the mobile condition into plurality of ranks, headings &

distances in Fig. 5, paragraph 0034].

Olson fails to teach the predetermined power according to each one of the ranks.

Siegel teaches the transmits the stored information by a predetermined power according to each one of the ranks [the calculated strength of the transmission signal and the transmission distance, based on the speed of the emergency vehicle, paragraph 0014, 0032; the varying transmission distance in paragraph 0036 as the rank; the calculated strength is the predetermined power], for providing the signal strength for the best transmission distance based on the vehicle speed. Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to upgrade Olson with Siegel's calculated strength, in order to provide the signal strength for the best transmission distance.

7.   Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olson in view of Fitzgibbon et al. (US 2003/0210,131 A1).

For claim 7, Olson teaches an operation apparatus [home electronic device 18 in Fig. 2] comprising an information reception part [antenna 28 of home electronic system 18] for receiving information from an information transmitting apparatus [18 receives control data from 54 of 12, paragraph 0028],

the transmitting apparatus [12, 54] which comprises an information storage part for storing information [control data message in memory of a transmitter for wirelessly controlling a plurality of home electronic systems, paragraph 0009];

a sensing part [52] for sensing a mobile condition of the information transmitting apparatus [detecting the mobile condition, the speed of wireless vehicle 10 & the calculated distance traveled, paragraph 0026], and

an information transmission part [54] for changing an information transmittable distance based on the mobile condition, then transmitting the information [transmitting control signal

based on proximity between the wireless control system 12 & home electronic system 18,

paragraph 0006, 0030; automatically transmit wireless control data from 12 to 18 based on

stored training heading, distance, information, for the changing the transmittable distance

based on the mobile condition in Fig. 5 & paragraph 0034-0035].

Olson teaches the transmitting the control data comprising fixed or rolling code or other

cryptographically encoded control code from 12 to 18 [paragraph 0028], but fails to teach

the authentication part; and an operation part for carrying out a predetermined action when

the authentication part issues a permission of authentication.

Fitzgibbon et al. [Fitzgibbon] teaches an authentication part [150] for carrying out

authentication based on the received information [control circuit 150 authenticates users,

paragraph 0041-0042, receiver 146 in paragraph 0040]; and an operation part for carrying

out a predetermined action when the authentication part issues a permission of

authentication [open, close, the garage door, paragraph 0042], to verify the authorized user

for using the door control system. Therefore, It would have been obvious to one of ordinary

skill in the art at the time the invention was made to upgrade Olson with Fitzgibbon'

authenticating user, to verify the authorized user for using the door control system.

For claim 8, Olson teaches the operation apparatus [wireless control system in Fig. 2],

wherein the apparatus is an automatic door and the operation part opens the door [Whisper

Drive garage door opener, paragraph 0024].

For claim 9, Olson teaches an information processing system [wireless control system

in Fig. 2] comprising

the transmitting apparatus [12, 54] which comprises an information storage part for

storing information [control data message in memory of a transmitter for wirelessly

controlling a plurality of home electronic systems, paragraph 0009];

a sensing part [52] for sensing a mobile condition of the information transmitting

apparatus [detecting the mobile condition, the speed of wireless vehicle 10 & the calculated

distance traveled, paragraph 0026], and

an information transmission part [54] for changing an information transmittable distance

based on the mobile condition, then transmitting the information [transmitting control signal

based on proximity between the wireless control system 12 & home electronic system 18,

paragraph 0006, 0030; automatically transmit wireless control data from 12 to 18 based on

stored training heading, distance, information, for the changing the transmittable distance

based on the mobile condition in Fig. 5 & paragraph 0034-0035].

an operation apparatus including an information reception part for receiving information

from the information transmitting apparatus [antenna 28 of home electronic system 18] for

receiving information from an information transmitting apparatus [18 receives control data

from 54 of 12, paragraph 0028],

Olson teaches the transmitting the control data comprising fixed or rolling code or other

cryptographically encoded control code from 12 to 18 [paragraph 0028], but fails to teach

the authentication part; and an operation part for carrying out a predetermined action when

the authentication part issues a permission of authentication.

Fitzgibbon et al. [Fitzgibbon] teaches an authentication part [150] for carrying out

authentication based on the received information [control circuit 150 authenticates users,

paragraph 0041-0042]; and an operation part for carrying out a predetermined action when

the authentication part issues a permission of authentication [open, close, the garage door,

paragraph 0042], to verify the authorized user for using the door control system. Therefore,

It would have been obvious to one of ordinary skill in the art at the time the invention was

made to upgrade Olson with Fitzgibbon' authenticating user, to verify the authorized user for using the door control system.

8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Olson in view of Fitzgibbon, as applied to claim 9 above, and further in view of Westerlage–'481 A1 and Striemer-'814 A1.

    For claim 10, Olson teaches the information processing system [Fig. 2], wherein the mobile condition is at least one mobile condition selected from the group consisting of a moving speed [detecting vehicle velocity, paragraph 0027], a traveling distance [calculate the traveled distance, 0027], and

    a traveling route of the information transmitting apparatus [paragraph 0033], wherein the sensing part [52 & subroutine, step 230, Fig. 7-8] senses the mobile condition [heading & distance in Fig. 5, paragraph 0034].

    Olson detects the vehicle speed [paragraph 0027]. Olson & Fitzgibbon fail to teach the moving acceleration.

    Westerlage et al. [Westerlage] teaches the moving acceleration [detecting the acceleration of mobile 22 in vehicle 20 for current position information in col. 4, lines 21-31 & transmitting vehicle information, traveled distance, to remote location, col. 4, lines 44-67; 22, Fig. 5-6], for determining of the mobile vehicle current position. Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to upgrade Olson with Westerlage's acceleration information, in order to determine the mobile vehicle current position.

    Olson, Fitzgibbon & Westerlage fail to teach the Bluetooth standard.

Striemer teaches the wherein the information transmission part is a communication

means in accordance with the Bluetooth standard [the transmitter of the UPS vehicle using

Bluetooth standard for communicating with a wireless device inside customer house for

confirming of the product delivery, when in range of physical location of customer,

confirming customized delivery [paragraph 0045-0046]; confirming required action according

to received message [paragraph 0042; controlling the print action by mobile phone when

printer is in range in paragraph 0023]. Therefore, It would have been obvious to one of

ordinary skill in the art at the time the invention was made to Olson, Westeriage with

Striemer's transmitter using Bluetooth standard, in order to confirm the required action

according to the received message.

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Olson in view of

Fitzgibbon, as applied to claim 9 above, and further in view of Siegel '056 A1.

For claim 11, Olson teaches the information transmitting apparatus [Fig. 2], wherein the

information transmission part divides the mobile condition into a plurality of ranks [control 30

of the transmission part divides the mobile condition into plurality of ranks, headings &

distances in Fig. 5, paragraph 0034].

Olson, Fitzgibbon fail to teach the predetermined power according to each one of the

ranks.

Siegel teaches the transmits the stored information by a predetermined power according

to each one of the ranks [the calculated strength of the transmission signal and the

transmission distance, based on the speed of the emergency vehicle, paragraph 0014,

0032; the varying transmission distance in paragraph 0036 as the rank; the calculated

strength is the predetermined power], for providing the signal strength for the best

transmission distance based on the vehicle speed. Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to upgrade Olson, Fitzgibbon with Siegel's calculated strength, in order to provide the signal strength for the best transmission distance.

10. Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olson in view of Siegel-'056 A1.

For claims 14, 15, Olson teaches the steps for software program [in paragraph 0039, 0050, 0025, Fig. 7-11], wherein the step of sensing includes a step of sensing a moving speed of the information transmitting apparatus [step 66, sensing distance traveled from 52in paragraph 0032; 52 detects velocity for calculating distance traveled, paragraph 0027].

Olson fails to teach the changing the transmission distance based on speed.

Siegel teaches the step of sensing acceleration [the first speed sensor in paragraph 0032; the sensing of high speed for long range setting in paragraph 0033]; the step of transmitting includes a step of changing the transmission distance of the information based on the speed, acceleration, before transmitting the information [the adjusting of transmission distance based in the varying increasing speed. The varying speed is the acceleration, paragraph 0036, 0038], to provide the best transmission distance, according to the speed [0036]. Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to Olson with Siegel's adjustable transmission distance, in order to provide the best transmission distance according to the speed.

Conclusion

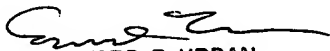11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A. Doyle et al. (US 5,974,356) teaches the system and method for determining vehicle travel routes and mileage [abstract, col. 3, lines 26-38 & col. 5, lines 24-40, Fig. 3A, Fig. 5].

B. Kubo et al. (US 6,249,682 B1) teaches the apparatus and method for estimating speed in a mobile communication [abstract, Fig. 1-10, Fig. 28, col. 4, lines 16-35, col. 4, lines 16-22, col. 2, line 65 to col. 3, line 12].

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Chow whose telephone number is (571) 272-7889. The examiner can normally be reached on 8:00am-5:30pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Charles Chow C.C.

November 2, 2006.

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